

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3744 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE A.R.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

ADARSH YUVAK MANDAL

Versus

DIST.EDUCATION OFFICER PANCHMAHALS

Appearance:

MR MUKESH R SHAH for Petitioner
MR CC BHALAJA, AGP for Respondent.

CORAM : MR.JUSTICE A.R.DAVE

Date of decision: 04/02/98

ORAL JUDGEMENT

Rule. Learned AGP Shri Bhalaja waives service of Rule.

2. The petitioner is an Institution running a school. It has approached this Court with a prayer that the respondent be directed to pay a sum of Rs. 70,303/towards grant payable to the petitioner for the Academic Years 1993-94 and 1994-95. In response to the

notice, an affidavit in reply has been filed by the District Education Officer, Godhra stating that in fact the petitioner Institution had to pay a sum of Rs. 1,42,638/- for the Academic Year 1995-96 to the respondent and, therefore, the claim made in the petition is not well-founded. Rejoinder has been filed to the affidavit in reply giving details with regard to amount of grant payable to the petitioner by the respondent for the Academic Year 1995-96. A copy of grant memo for the Academic year 1995-96 dated 13.4.1997 has been annexed to the affidavit in rejoinder wherein it has been provided that in fact a sum of Rs. 8,675/- is to be recovered from the petitioner by the respondent for the said year. The said amount has been arrived at after adjusting all payments made to the petitioner and to be made by the petitioner. Thus, as per the rejoinder filed by the petitioner which is based on the documents supplied by the respondent, only a sum of Rs. 8,675/- is payable by the petitioner to the respondent. It is pertinent to note that in the affidavit in reply filed by the respondent, it is admitted that the respondent has to pay a sum of Rs. 70,305/- to the petitioner towards grant for the Academic Year 1993-94 and 1994-95. Thus, according to the respondent, after retaining a sum of Rs. 8,675/-, the balance amount is to be paid to the petitioner.

3. Learned AGP Shri Bhalaja has fairly submitted that possibly the amount of Rs. 1,42,638/- referred to at page 29 of the paper book which is forming part of the affidavit in reply had already been adjusted while calculating the amount of grant payable to the petitioner for the Academic Year 1995-96.

4. If these are the undisputed facts, then the petitioner should succeed and should be paid the amount payable to it by the respondent. In the circumstances, the petition is allowed and the respondent is directed to pay the amount payable to the petitioner after its due verification within three months from the date of receipt of this order. Rule is made absolute with no order as to costs. Direct Service permitted.

(A.R. Dave, J.)